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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
C.F. Communications Corp., et al.)
)
Complainants,)
)
v.)
)
Century Telephone of Wisconsin,)
Inc., et al.)
)
Defendants)
)

EB Docket No. 01-99

File Nos. E-93-43, E-93-44,
E-93-45

To: Arthur I. Steinberg
Administrative Law Judge

MOTION TO STRIKE LETTER FILED BY
COMPLAINANT ASCOM COMMUNICATIONS, INC.

Carolina Telephone and Telegraph Company, in File No. E-93-43, United Telephone Company of Pennsylvania, in File No. E-93-44, and United Telephone Company of Florida in File No. E-93-45 ("Defendants") by their attorneys hereby request that Ascom's ("Complainant") August 3, 2001 letter filed in this proceeding be stricken as an improper reply pleading.

On August 3, 2001, the Complainant filed a letter to Your Honor responding to Defendants' opposition to Ascom's Motion to Compel Answers to Interrogatories and the Production of Documents. This letter violates the Commission's rules for the following reasons.

First, pursuant to Commission Rule 1.323(c), after a party files a response to a motion to compel an answer upon written interrogatories, "[a]dditional pleadings should not be submitted

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and will not be considered.” The Defendants, on July 25, 2001 filed, pursuant to Sections 1.323(c) and 1.294 of the Commission’s Rules, their response opposing the Motion to Compel Answers to Interrogatories and the Production of Documents filed by the Complainant. On August 3, 2001, Ascom’s counsel filed a reply to Defendants’ Opposition through the use of a letter to Your Honor. This letter asks Your Honor to compel interrogatory answers and document production,¹ and therefore, the letter is a thinly veiled pleading. Accordingly, the letter should be stricken and should not be considered in this proceeding.

Second, pursuant to the Commission Rules governing oppositions and replies,² the letter should not be considered. Rule 1.294(b) states that:

“Except as provided in paragraph (c) of this section, oppositions shall be filed within 4 days after the original pleading is filed, and replies to oppositions will not be entertained. See, however, §1.732.”

Paragraph (c) pertains to [p]etitions to amend, modify, enlarge, or delete the issues upon which the hearing was ordered; [p]etitions by adverse parties requesting dismissal of an application; and [j]oint requests for approval of agreements filed pursuant to § 1.525. Accordingly, paragraph (c) does not apply in the instant case. Neither does §1.732 because it only relates to briefs. Therefore, 1.294(b) requires that Complainant’s replies to oppositions not be entertained.

Further, pursuant to Commission Rule 1.294(d), “[a]dditional pleadings may be filed only if specifically requested or authorized by [Your Honor].” Because Your Honor did not specifically request or authorize Complainant’s August 3, 2001 pleading, the letter was improperly filed in this proceeding.

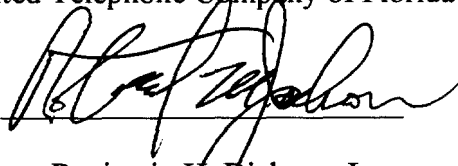
¹ Letter, page 5.
² 47 C.F.R. §1.294.

For these reasons, we respectfully request that the August 3, 2001 letter be stricken as an unauthorized pleading. Complainant is not entitled to two bites at the Motion to Compel apple.

Respectfully submitted,

Carolina Telephone and Telegraph Company;
United Telephone Company of Pennsylvania;
United Telephone Company of Florida

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Dated: August 6, 2001

Their Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2001 a copy of the foregoing was served by first-class United States mail, postage prepaid, on the following parties:

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